



COUNCIL AGENDA: 5/24/2022

ITEM: 22-747

FILE: 2.9

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Nanci Klein

SUBJECT: SEE BELOW

DATE: May 9, 2022

Approved

Date

5/13/2022

COUNCIL DISTRICT: 3

SUBJECT: PRELIMINARY APPROVAL OF 2022-2023 BUDGET REPORT, ADOPTION OF RESOLUTION OF INTENTION TO LEVY 2022-2023 ASSESSMENTS IN THE DOWNTOWN BUSINESS IMPROVEMENT DISTRICT, SUSPEND COLLECTION OF THE ASSESSMENTS FOR BUSINESSES THAT QUALIFY FOR THE BUSINESS TAX FINANCIAL HARDSHIP EXEMPTION UNDER THE CITY'S GENERAL BUSINESS TAX ORDINANCE, AND SETTING THE DATE AND TIME FOR THE PUBLIC HEARING ON THE LEVY OF ASSESSMENTS

RECOMMENDATION

- (a) Preliminarily approve the report as filed by the Downtown Business Improvement District Advisory Board, or as modified by City Council.
- (b) Adopt a resolution of intention to levy the annual assessment for Fiscal Year 2022-2023, suspend collection of the Downtown Business Improvement District assessments for businesses that qualify for the business tax financial hardship exemption under the City's General Business Tax Ordinance, and set Tuesday, June 14, 2022 at 1:30 p.m. as the date and time for the public hearing on the levy of the proposed assessments.

OUTCOME

Approval of this action will result in a resolution of intention to levy the assessments for the upcoming fiscal year of the Downtown Business Improvement District (BID), exempt businesses from the Downtown BID assessments if they qualify for a financial hardship exemption under the City's General Business Tax Ordinance, and set the time and date for the public hearing.

BACKGROUND

The Downtown BID was established by City Council in 1988 pursuant to the California Parking and Business Improvement Area law (BID Law) to promote the economic revitalization and physical maintenance of the Downtown Business District. The Downtown BID service area is shown in the attached Exhibit 1. In 1989, City Council appointed the Downtown Association as the advisory board (Advisory Board) for the BID, to advise City Council on the levy of assessments in the BID and the expenditure of revenues derived from the assessments for the benefit of the BID.

Pursuant to BID Law, the Advisory Board must come before City Council on an annual basis to present a report. The report proposes a budget for the upcoming fiscal year for the BID to advise City Council on the levy of assessments in the BID and the expenditure of revenues derived from the assessments for the benefit of the BID. City Council must then: 1) review the report and preliminarily approve it as proposed or as changed by City Council; 2) adopt a resolution of intention to levy the assessments for the upcoming fiscal year; and 3) set a date and time for the public hearing on the BID-related actions. Absent a majority protest at the public hearing, at the conclusion of the public hearing, City Council may adopt a resolution approving the budget for Fiscal Year 2022-2023 as filed or as modified by City Council. The adoption of the resolution constitutes the levying of the BID assessments for the Fiscal Year 2022-2023.

As part of its annual budget report, the Advisory Board is recommending that the BID assessments be suspended for those businesses that qualify for a financial hardship exemption under the City's general business tax as set forth in Section 4.76.345 (Financial hardship exemption for low generating small businesses) and Section 4.76.345.5 (Financial hardship exemption for small business owners with limited household incomes) of the San José Municipal Code.

In order to qualify for an exemption, the business must be a sole proprietorship, which means a business owned and operated by one person or owned and operated jointly by a husband and wife or domestic partners without other principals or employees where its gross receipts do not exceed the poverty level established by the Department of Health and Human Services for a single person (multiplied by 2) for the calendar year in which the assessment is due, or a small business owner where the adjusted gross income of the small business owner and the small business owner's spouse or domestic partner, added together, do not exceed the poverty level established by the Department of Health and Human Services for a single person (multiplied by 4).

ANALYSIS

The Advisory Board prepared an annual report (Report) and budget, attached as Exhibits 2 and 3, respectively, for City Council's consideration as the proposed budget for the Downtown BID for Fiscal Year 2022-2023. As required by BID Law, the Report has been filed with the City Clerk and contains, among other things, a list of improvements and activities proposed to be provided in the BID in Fiscal Year 2022-2023, an estimate of the cost of providing the improvements and

activities, and a recommendation to suspend the collection of the Downtown BID assessment where a business qualifies for a financial hardship exemption under the City's General Business Tax Ordinance. The Advisory Board has recommended no change in the method and basis for levying assessments other than to recommend suspending the collection of the Downtown BID assessments in certain instances where financial hardship is sufficiently demonstrated.

City Council may approve the Report as filed or modify the Report and approve it as modified. After approval of the Report, City Council must adopt a resolution of intention to levy the annual assessment for the 2022-2023 fiscal year, suspend the BID assessments in certain instances as noted above, and fix a time and place for a public hearing to be held on the levy of the proposed assessment.

CONCLUSION

Approval of this action will result in the adoption of a resolution of intention to levy the assessments for the upcoming fiscal year of the Downtown BID as set forth herein, and to set Tuesday, June 14, 2022 at 1:30 p.m. as the date and time for the public hearing on the levy of the proposed assessments.

EVALUATION AND FOLLOW-UP

The Advisory Board will come before City Council next year to present a report that proposes a budget for the 2023-2024 fiscal year.

CLIMATE SMART SAN JOSE

The recommendation in this memorandum has no effect on Climate Smart San José energy, water, or mobility goals.

PUBLIC OUTREACH

The budget for Fiscal Year 2022-2023 was reviewed and approved at the Advisory Board's meeting on April 27, 2022.

This memorandum will be posted on the City's website for the May 24, 2022 City Council meeting agenda.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office, the Finance Department, Planning, Building and Code Enforcement, the City Manager's Budget Office, the Downtown Business and Professional Association, and the City Clerk's Office.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

FISCAL/POLICY ALIGNMENT

This action is consistent with the Economic Development Strategy approved by City Council, specifically Initiative No. 1, "Encourage Companies and Sectors that Can Drive the San Jose/Silicon Valley Economy and Generate Revenue for City Services and Infrastructure" and Initiative No. 10, "Continue to Position Downtown as Silicon Valley's City Center." A healthy Business Improvement District will encourage growth of the retail community and consequently result in additional sales tax revenue for the City.

COST SUMMARY/IMPLICATIONS

Adoption of the proposed Downtown BID budget does not directly impact City revenue, as Downtown BID assessments are restricted for use exclusively by the Downtown BID. However, a healthy Downtown Business Improvement District is anticipated to encourage growth of the retail community, which indirectly generates business tax and sales tax revenue for the City.

The 2022-2023 Proposed Operating Budget, subject to City Council approval, includes projected assessment revenue and corresponding expenses totaling \$800,000, as detailed in the Source and Use Statement for the Business Improvement District Fund (351). Subsequent actions will be brought forward as part of the regular budget process to align these budgeted amounts to the levels approved in this memorandum.

HONORABLE MAYOR AND CITY COUNCIL

April 29, 2022

Subject: Approval of 2022-2023 Budget Report – Downtown BID

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CEQA

Statutorily Exempt, CEQA Guidelines Section 15061(b), Review for Exemption, File No. PP08-048.

/s/

NANCI KLEIN

Director of Economic Development and
Cultural Affairs

For questions, please contact Sal Alvarez, Executive Analyst, Office of Economic Development and Cultural Affairs at (408) 793-6943.

Attachments

Exhibit 1 – Downtown BID Map

Exhibit 2 – Downtown BID Report for FY 2022-2023

Exhibit 3 – Downtown BID Budget for FY 2022-2023



DOWNTOWN SAN JOSE

BUSINESS IMPROVEMENT DISTRICT (BID)

July 2013

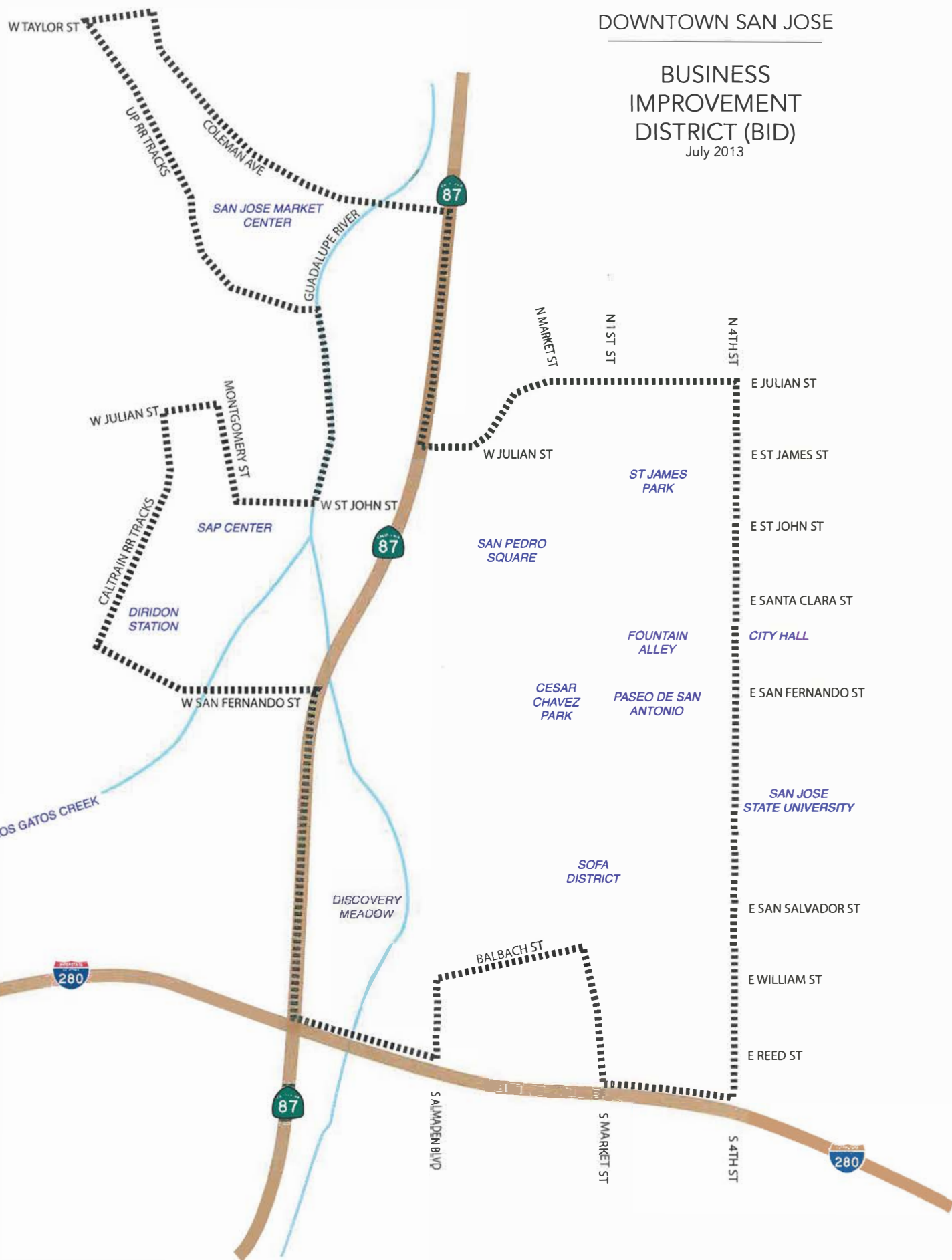


Exhibit 2

April 27, 2022

Downtown BID Report for Fiscal Year 2022-23

1. The boundaries of the Downtown BID are as follows: I-280 at Fourth Street west along Reed Street to west side of Market Street to south side of Balbach Street to east side of Almaden Boulevard to continue on West Reed Street to Highway 87, Highway 87 north to West San Fernando Street, south side of West San Fernando Street to CalTrain tracks, CalTrain tracks to West Julian Street, south side of West Julian Street east to Montgomery Street, west side of Montgomery Street south to south side of West St. John Street to the Guadalupe River, north along east side of the Guadalupe River to the western most set of Union Pacific Railroad tracks, north side of the Union Pacific Railroad tracks north to West Taylor Street, south side of West Taylor Street east to Coleman Avenue, southwest side of Coleman Avenue east to Highway 87, Highway 87 south to West Julian Street, both sides of West Julian Street east to First Street, south side of East Julian Street east to Fourth Street, both sides of Fourth Street south back to I-280. See Exhibit 3.
2. As of July 1, 2014, businesses that are exempt from paying the City's Business Tax under Chapter 4.76 of the San Jose Municipal Code no longer pay the Downtown Business Improvement District assessment fee. If the business qualifies for the hardship exemption for the City of San Jose Business License Tax, the business will automatically qualify for the BID assessment fee waiver.
3. The Downtown BID will assess current year BID charges only when a business within the Downtown BID already in possession of a Business License and already assessed the Business License Tax is discovered to have not been assessed the BID in previous years.
4. Improvements and activities for FY 2022-23: See Exhibit 2
5. An estimate of the total cost of providing the improvements and activities for fiscal year 2022-23 is approximately \$2,525,600. Estimated BID funds of \$660,000 contribute to total program and staffing costs. Additional costs estimated at \$1,865,600 are paid through Downtown Association revenue raised through programs and activities, project City of San Jose contract services, Property Based Improvement District, grants, and other sources.
6. The current method and basis for levying the annual assessment are as follows:

CATEGORY	PROPOSED RATE
I. Retail	\$29.04 per FTE/\$264 min.
II. Non-Retail	\$19.35 per FTE/\$185 min.
III. Apartments & Hotels	\$7.92 per room/\$264 min.

(residential landlords of 1-2 units \$7.92 per room/\$150 min)
(residential landlords of 3 or more units \$7.92 per room/\$264 min)

IV.	Parking Lots	see commercial landlord	
V.	Non-profits		\$100
VI.	Independent Contractors/Rolling Vendors		\$55
VII.	Commercial Landlords/Parking Lots		
	Less than 10,000 square feet		\$440
	10,001 to 50,000 square feet		\$990
	50,001 to 100,000 square feet		\$1,540
	More than 100,000 square feet		\$2,200

Maximum annual charge in all categories is \$6,000.

If any single business falls into more than one category, charges are assessed based upon the category producing the highest revenue for the BID.

7. Total Downtown Association program and staffing costs are funded by the following sources of revenue, in addition to assessment district revenue of \$660,000: Downtown Association revenue raised through programs and activities, project City of San Jose contract services, Property Based Improvement District, grants, and other sources (estimated): \$1,865,600.

REVENUE	Amount
BID FY 2022-23 (Estimated)	660,000
<i>Total Revenue</i>	\$ 660,000
EXPENSE	
Operating / Administration	210,000
Downtown Lights	80,000
Farmers' Market	45,000
Music in the Park	15,000
Dine Downtown	25,000
Marketing and Advertising	76,000
Communications/Publicity	81,000
Parking Promotions	10,000
District Promotions (SoFA, San Pedro Square, Historic)	21,000
Downtown for the Holidays	10,000
Membership & Partnership Services	40,000
Planning, Research & Advocacy	47,000
<i>Total Expenses</i>	660,000

Notes:

1. Program budget are estimates. Additional or unused BID revenue will be applied to similar programs or carry forward into the next year.